

REMARKS

Reconsideration and withdrawal of the restriction requirement are respectfully requested in view of the remarks herewith.

The April 20, 2007 Office Action called for restriction from among the following:

Group I: Claims 1-8, drawn to a first embodiment of a microsystem platform, for separating analyte from a fluid sample, classified in class 422, subclass 72;

Group II: Claims 9-15, drawn to a second embodiment of a microsystem platform for separating analyte from a fluid sample, classified in class 422, subclass 72 and

Group III: Claims 16-22, drawn to a third embodiment of a microsystem platform for separating analyte from a fluid sample, classified in class 422, subclass 72.

Applicants elect, with traverse, Group II for further prosecution in this application. Applicants reserve the right to file divisional applications to non-elected subject matter. Reconsideration and withdrawal of the restriction requirement are respectfully requested in view of the remarks herewith.

As a traverse, it is noted that the MPEP lists two criteria for a proper restriction requirement. First, the inventions must be independent or distinct. MPEP § 803. Second, searching the additional inventions must constitute an undue burden on the examiner if restriction is not required. *Id.* The MPEP directs the examiner to search and examine an entire application “[i]f the search and examination of an entire application can be made without serious burden, ...even though it includes claims to distinct or independent inventions.” *Id.*

Groups I-III are all directed to a microsystem platform for separating analyte from a fluid sample. It is respectfully submitted that any search for the analytical rotor of Group I will certainly encompass the assay rotor or assay chamber of Group III. The groups are inextricably linked in that they all involve a microsystem platform for separating analyte from a fluid sample. Furthermore, all of the Groups are classified in the same class and subclass. Therefore, it is respectfully submitted that it would not place an unnecessary burden on the Examiner to search and examine all groups together, as a search for the analytical rotor of Group I would certainly encompass the assay rotor or assay chamber of Group III.

In view of the above, reconsideration and withdrawal of the restriction requirement is respectfully requested.

In summary, enforcing the present restriction requirement would result in inefficiencies and unnecessary expenditures by both the Applicants and the PTO, as well as extreme prejudice to Applicants (particularly in view of GATT, whereby a shortened patent term may result in any divisional applications filed). Restriction has not been shown to be proper, especially since it has been shown that the requisite showing of serious burden has not been made. Indeed, the search and examination of each Group would be likely to be co-extensive and, in any event, would involve such interrelated art that the search and examination of the entire application can be made without undue burden on the Examiner. All of the preceding, therefore, mitigate against restriction.

Consequently, reconsideration and withdrawal of the restriction requirement are respectfully requested.

CONCLUSION

In view of the remarks herein, reconsideration and withdrawal of the restriction requirement are requested.

Early and favorable consideration of the application on the merits, and early Allowance of the application are earnestly solicited.

Respectfully submitted,
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